

BSI-430US8

PATENT

#13

ADDED PAGE TO COMBINED DECLARATION
AND POWER OF ATTORNEY FOR SIGNATURE BY JOINT INVENTOR(S)
ON BEHALF OF NON-SIGNING INVENTOR(S) WHO REFUSE(S)
TO SIGN OR CANNOT BE REACHED (37 CFR 1.47(a))

- I. WE are the above named joint inventors and have signed this declaration on our own behalf and also sign this declaration under 37 CFR 1.47(a) on behalf of the nonsigning joint inventors, particulars from whom are:

Full name of first Rysler Alcime nonsigning inventor who

- ☐ refuses to sign
☒ cannot be found or reached

United States of America

Country of Citizenship of nonsigning inventor

925 N.E. 122th Street, Miami, Florida 33161

Last known address of nonsigning inventor

- II. Accompanying this declaration is:

- (1) A STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF
NON-SIGNING INVENTORS
(2) THE PETITION FEE OF \$130.00

Leonard Pinchuk
(type or print name of joint inventor
signing on behalf of nonsigning inventor)

Leonard Pinchuk 2/6/04
Signature

Yasushi Kato
(type or print name of joint inventor
signing on behalf of nonsigning inventor)

Yasushi Kato Feb 06 '2004
Signature

DECLARATION PURSUANT TO 37 C.F.R. § 1.47(a)

This Declaration is being made in accordance with 35 U.S.C. § 116, 37 C.F.R. § 1.47(a) and M.P.E.P. 409.03 *et seq.* because inventor Rysler Alcime cannot be reached after diligent effort, or because he refuses to sign. The facts as set forth below support the applicant's position that one of these two situations exists. The applicants ask, therefore, that the captioned Reissue Application proceed in the name of all three named inventors listed on the Supplemental Reissue Application Declaration attached hereto. What follows is a recitation of facts supporting this request made by the Attorney of Record in the captioned case.

This statement is being made by the available person having first-hand knowledge of the facts recited therein.

IDENTIFICATION OF PERSON MAKING THIS STATEMENT OF FACTS

Jonathan H. Spadt, Esquire
Attorney of Record
U.S. Serial No. 09/657,041

1. On January 5, 1999, U.S. Patent No. 5,855,598 (the '598 Patent) issued to Corvita Corporation and listed as the sole inventor, Leonard Pinchuck.
 2. On August 18, 2000, a Petition to Correct Inventorship of the '598 Patent was filed which listed three inventors, namely Leonard Pinchuck, Rysler Alcime, and Yasushi Kato. Included in that filing was a Statement Pursuant to 37 C.F.R. § 1.324(b)(1) signed by Rysler Alcime.
 3. On September 5, 2000, a Reissue Application was filed for the '598 Patent which was assigned Serial No. 09/657,041. An unexecuted Reissue Application Declaration accompanied that filing, the unexecuted declaration naming all three inventors, namely Leonard Pinchuck, Rysler Alcime, and Yasushi Kato.
 4. On September 30, 2003, a Supplemental Reissue Application Declaration was sent to each inventor for signature, including Rysler Alcime. That document was sent via Federal Express® to:
925 N.E. 122nd Street
Miami, Florida 33161
- Receipt was confirmed on October 1, 2003 by R. Branchedor. A copy of the relevant confirmation information is attached hereto at Exhibit A.
5. Having not received the executed Supplemental Reissue Application Declaration back from Rysler Alcime, it was again sent, on October 23, 2003, to the same address as the one sent on September 30, 2003, via DHL® courier. Receipt was confirmed on October 24, 2003, by a Z. Alcime. A copy of the relevant confirmation information is attached hereto at Exhibit B.

6. Upon still not having received the executed Supplemental Reissue Application Declaration, a telephone number was found for Rysler Alcime at the above address and a phone call was made to him (at (305) 895-8747) on each of 5 different occasions by the below-named signatory between October 26 and November 14, 2003. No answering machine picked up on any of those occasions and no one answered the phone on any occasion (except for the one instance detailed in paragraph 7). In each case the phone rang for over 15 rings.

7. On one of those occasions, a person answered the telephone and when asked, claimed not to be Rysler Alcime. The person was rather incoherent, and when the below-named signatory asked if the person would take a message and ask Mr. Alcime to call back when he returned, the person responded, "No, you call back later" and hung up.

8. On November 17, 2003, the below-named signatory called the same number and did get an answering machine. A message was left requesting a return call but to date no return call has been received.

9. During the week of November 10, 2003, the below-named signatory called a co-inventor on the Reissue Application, namely Leonard Pinchuk, and inquired about the whereabouts of Mr. Alcime. Dr. Pinchuk responded that he did not know Mr. Alcime's whereabouts, but that he had heard that Mr. Alcime had started an import/export business trading with Haiti and that he did spend several weeks at a time in Haiti.

10. In early December, 2003, the below-named signatory received a call from someone claiming to be Rysler Alcime's wife. The caller indicated that Rysler Alcime was traveling overseas but that he was going to return in late December and would then look at the documents.

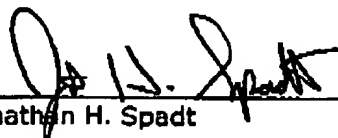
11. On or about January 20, 2004, when no word had yet been received from Rysler Alcime, phone calls were again placed to (305) 895-8747 on several occasions, totaling at least 6 times, through January 29, 2004. No contact or answering machine pick-up was achieved.

12. The name and last known address of the non-signing Inventor is:

Rysler Alcime
925 N.E. 122nd Street
Miami, Florida 33161

13. For all of the above reasons, the applicants of this Reissue Application believe that a *bona fide* effort has been made to ascertain the whereabouts of Mr. Alcime and obtain his signature on the declaration, and that he either is refusing to join or has not been found after diligent effort. Accordingly, the applicants respectfully request that the Supplemental Reissue Application Declaration enclosed be accepted as executed by Leonard Pinchuk and Yasushi Kato.

14. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

 2/09/04
Jonathan H. Spadt